p. 244, that there must be a distinct legislative authority for every tax levied. *Litchfield* v. *Vernon*, 41 N. Y. 123. Yet dower is subject to legislative control, for while it is true that the husband cannot deprive his wife of her inchoate right of dower, the State may. *Rand* v. *Keiger*, 23 Wall. 148. Holding therefore, not by contract but by laws which the State may change, the widow's right of dower may be considered a part of the "intestate laws of the State."

INSURANCE—PROOF OF LOSS—TIME OF MAILING.—PEABODY V. SATERLEE, 59 N. E. Rep. 818 (N. Y.).—A condition in a fire insurance policy, requiring the insured to furnish proofs of loss within a certain time, is broken when the insurer does not receive them until after such time, although insured mailed them before the time had expired. O'Brien, Martin and Vann, JJ., dissenting.

Where notice is required to be given and no express method is pr it must be personal notice as required by the common law. *Rathbun* v. *Acker*, 18 Barb. 393. And where in such case notice is sent by mail, there is only a presumption of receipt by the company. *Susquehanna M. F. Ins. Co.* v. *Toy Co.*, 87 Pa. St. 424. Where a policy required that notice of losses be given by mail, the Supreme Court of New York held that the sending of such notice by mail only raised a presumption that it was received. *Hodgkins* v. *Montgomery*, 34 Barb. 213. But the Court of Appeals in the same case (41 N. Y.) held it to be conclusive, which was certainly more in accord with the intent of the parties as evidenced by the express provision of the policy.

INSURANCE—WARRANTY—INTOXICANTS—HABITUAL USE.—SUPREME LODGE, K. OF P. V. FOSTER, 59 N. E. Rep. 876 (Ind.).—To the question, "To what extent do you use intoxicating liquors?" an applicant for life insurance answered: "Not at all." *Held*, to mean not an habitual use.

The language of the application must receive a reasonable construction; one within the contemplation of the parties at the time the contract was consummated. The only purpose of requiring the insured to state in the application to what extent he used alcoholic liquors, was to guard against the risk from insuring the life of one who was in the habit of using them to such an excess as to imperil his health. *Grand Lodge* v. *Belcham*, 145 Ill. 308.

LIABILITY OF LANDLORD—INDEPENDENT CONTRACTOR—INJURY TO TENANT'S GOODS.—PEERLESS MFG. CO. V. BAGLEY ET AL., 85 N. W. 568 (Mich.).—Landlord, in accordance with agreement with tenant, engaged an experienced contractor to put in a fire extinguishing apparatus. Contractor negligently put in a sprinkler which fused at too low a temperature, in consequence of which damage resulted to tenant. *Held*, the landlord was liable.

Defendant relied upon the rule that when one employs a competent, experienced and independent contractor, he is not liable for defects. See *Devlin* v. *Smith*, 89 N. Y. 470; *Miller* v. *Railroad*, 125 N. Y. 1180. This rule, however, is not applicable to case at bar, for the landlord owes an absolute duty to tenant and cannot acquit himself of liability by delegating that duty to an independent contractor. *Wertheimer* v. *Saunders*, 95 Wis. 573; *Sturges* v. *Theological Society*, 130 Mass. 414.

MUNICIPAL CORPORATIONS—SEWERS—OBSTRUCTIONS—INJURIES TO ABUTTING OWNER—NEGLIGENCE.—TALCOTT V. CITY OF NEW YORK, 69 N. Y. Supp. 360.—Action to recover damages sustained by the plaintiff in consequence of an obstruction in a public sewer, occasioned by no other cause, except the or-

dinary use to which it put. *Held*, that where a sewer under the control of a city becomes obstructed by ordinary use, and an abutting owner's property is injured thereby, a presumption of negligence arises calling upon the defendant for an explanation, and upon failure to show that watchfulness and care had been exercised to keep the sewer in proper condition, a finding of negligence would be sustained.

This case is in accord with the majority of decisions which hold that when a sewer has been determined upon and is constructed, the duties of constructing it properly and keeping it in good condition and repair are maintained, and that negligence in the performance of those duties will render the city liable for damages resulting therefrom. *Mills* v. *City of Brooklyn*, 32 N. Y. 489; *Boston* v. *City of Syracuse*, 37 N. Y. 54; *Mayor* v. *Furze*, 3 Hill 612; *Horn* v. *Burnhoof*, Ct. Ap. Conn.

MUNICIPAL CORPORATIONS—SPECIAL ASSESSMENTS—CONSTITUTIONALITY—ZELURDER V. BARBER ASPHALT PAVING CO., 106 Fed. 103.—A statute, whereby municipal corporations are given the right to assess abutting property owners for the total cost of street improvements without any opportunity first being given for an examination into the question of benefits, is unconstitutional.

It has long been settled that municipalities may have the legal power conferred upon them to assess the cost of street improvements against the property located in the neighborhood of such improvements. *Ill. C. R. R. Co.* v. *Decatur*, 147 U. S. 190; *Banman* v. *Ross*, 167 U. S. 548. Though such assessments are a form of taxation, yet even there the power of the legislature is not extended so far that it may authorize the taking of property without benefit being conferred on those assessed. The present case follows closely and relies almost absolutely on *Village of Norwood* v. *Baker*, 172 U. S. 269.

NEGLIGENCE—DEATH OF HORSE—FRIGHT.—LEE V. CITY OF BURLINGTON, 85 N. W. 618 (Ia.).—The negligent operation of a street roller so frightened a horse that it dropped dead. *Held*, no recovery from the city.

This is an unusual case and involves a very nice point of law. It is a settled rule, as to human beings, that no recovery can be had for injuries resulting from fright, where no immediate personal injury is received. *Ewing* v. *Railroad Co.* (Pa. Sup.), 23 Atl. 340; *Spade* v. *Railroad Co.* (Mass.), 47 N. E. 88. The court considers the same rule to be applicable to animals.

RAILROADS—FIRES—BURDEN OF PROOF—IMPROVED APPLIANCES.—WHITE V. NEW YORK, P. & N. R. Co., 38 S. E. 180.—*Held*, when a fire is caused by sparks thrown from a locomotive, that if it appears that the company owning the locomotive has discharged its duty by providing and keeping in repair the most approved appliances for preventing the throwing of sparks, there could be no recovery for damages caused thereby.

Fire caused by sparks from a locomotive is *prima facie* evidence of negligence. *R. R.* v. *Rogers*, 76 Va. 457. The using and keeping in repair of approved appliances is sufficient to rebut the presumption of negligence. *Kimball* v. *Borden*, 44 S. E. 45.

WATERS AND WATER COURSES—DAMS—OVERFLOW—PRESCRIPTIVE RIGHT.—CHARNEY V. SHAWNO WATER POWER, &c., Co., 85 N. W. 507 (Wis.).—